

AMENDED IN ASSEMBLY APRIL 7, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 554

Introduced by Assembly Member Daucher

February 18, 2003

An act to amend ~~Section 76140~~ *Sections 76300 and 84751* of the Education Code, relating to community colleges, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 554, as amended, Daucher. Community colleges: *enrollment fees: Community Colleges Instructional Augmentation Fund.*

Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college governing boards, and authorizes these districts to provide instruction, *for a fee of \$11 per unit per semester*, at community college campuses throughout the state. ~~Existing law authorizes community college districts to admit nonresident students, and requires community college districts to charge a tuition fee to nonresident students.~~

Existing law requires the Chancellor of the California Community Colleges, for the purposes of computing certain apportionments to community college districts, to subtract, from the total revenue owed to each district, 98% of the revenues received by districts from charging fees under this provision.

This bill would ~~make various technical, nonsubstantive changes in a provision relating to nonresident student tuition fees at the California~~

~~Community Colleges delete the requirement that this amount be subtracted from the total revenue owed to each district for the purpose of computing certain apportionments and district revenue levels.~~

The bill would establish the Community Colleges Instructional Augmentation Fund, and would require the proceeds of the fee described above to be deposited into this fund. This fund would be continuously appropriated for allocation by the chancellor to each community college district on an equal basis per full-time equivalent student to supplement and enrich instructional and instructionally related services and financial aid services to students.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 76140 of the Education Code is~~
2 ~~amended to read:~~

3 *SECTION 1. Section 76300 of the Education Code is*
4 *amended to read:*

5 76300. (a) The governing board of each community college
6 district shall charge each student a fee pursuant to this section.

7 (b) (1) The fee prescribed by this section ~~shall be~~ *is* eleven
8 dollars (\$11) per unit per semester.

9 (2) The chancellor shall proportionately adjust the amount of
10 the fee for term lengths based upon a quarter, system and also shall
11 proportionately adjust the amount of the fee for summer sessions,
12 intersessions, and other short-term courses. In making these
13 adjustments, the chancellor may round the per unit fee and the per
14 term or per session fee to the nearest dollar.

15 ~~(c) For the purposes of computing apportionments to~~
16 ~~community college districts pursuant to Section 84750, the~~
17 ~~chancellor shall subtract from the total revenue owed to each~~
18 ~~district, 98 percent of the revenues received by districts from~~
19 ~~charging a fee pursuant to this section.~~

20 ~~(d)~~ The chancellor shall reduce apportionments by up to 10
21 percent to any district that does not collect the fees prescribed by
22 this section.

23 ~~(e)~~

24 (d) The fee requirement does not apply to any of the following:

(1) Students enrolled in the noncredit courses designated by Section 84757.

(2) California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(3) Students enrolled in credit contract education courses pursuant to Section 78021, if the entire cost of the course, including administrative costs, is paid by the public or private agency, corporation, or association with which the district is contracting and if these students are not included in the calculation of the ~~average daily attendance~~ *full-time equivalent students (FTES)* of that district.

~~(f)~~

(e) The governing board of a community college district may exempt special part-time students admitted pursuant to Section 76001 from the fee requirement.

~~(g)~~

(f) (1) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a recipient of benefits under the ~~Aid to Families with Dependent Children~~ *Temporary Assistance to Needy Families* program, the Supplemental Security Income/State Supplementary Program, or a general assistance program or has demonstrated financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid. ~~The~~

(2) ~~The~~ governing board of a community college district also shall waive the fee requirements of this section for any student who demonstrates eligibility according to income standards established by the board of governors ~~and contained in Section 58620 of Title 5 of the California Code of Regulations.~~

~~(h)~~

(g) The fee requirements of this section shall be waived for any student who, at the time of enrollment is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active

1 service of the state, was killed, died of a disability resulting from
2 an event that occurred while in the active service of the state, or is
3 permanently disabled as a result of an event that occurred while in
4 the active service of the state. "Active service of the state," for the
5 purposes of this subdivision, refers to a member of the California
6 National Guard activated pursuant to Section 146 of the Military
7 and Veterans Code.

8 ~~(i)~~

9 (h) The fee requirements of this section shall be waived for any
10 student who is the surviving spouse or the child, natural or
11 adopted, of a deceased person who met all of the requirements of
12 Section 68120.

13 ~~(j)~~

14 (i) The fee requirements of this section shall be waived for any
15 student in an undergraduate program, including a student who has
16 previously graduated from another undergraduate or graduate
17 program, who is the dependent of any individual killed in the
18 September 11, 2001, terrorist attacks on the World Trade Center
19 ~~in New York City, and the Pentagon building in Washington, DC,~~
20 or the crash of United Airlines Flight 93 in southwestern
21 Pennsylvania, if ~~he or she~~ *that dependent* meets the financial need
22 requirements set forth in Section 69432.7 for the Cal Grant A
23 Program and either of the following apply:

24 (1) The dependent was a resident of California on September
25 11, 2001.

26 (2) The individual killed in the attacks was a resident of
27 California on September 11, 2001.

28 ~~(k)~~

29 (j) A determination of whether a person is a resident of
30 California on September 11, 2001, for purposes of subdivision ~~(j)~~
31 (i) shall be based on the criteria set forth in Chapter 1 (commencing
32 with Section 68000) of Part 41 for determining nonresident and
33 resident tuition.

34 ~~(l)~~

35 (k) (1) ~~"Dependent"~~ *"Dependent,"* for purposes of
36 subdivision ~~(j)~~ (i), is a person who, because of his or her
37 relationship to an individual killed as a result of injuries sustained
38 during the terrorist attacks of September 11, 2001, qualifies for
39 compensation under the federal September 11th Victim

1 Compensation Fund of 2001 (Title IV (commencing with Section
2 401) of Public Law 107-42).

3 (2) A dependent who is the surviving spouse of an individual
4 killed in terrorist attacks of September 11, 2001, is entitled to the
5 waivers provided in this section until January 1, 2013.

6 (3) A dependent who is the surviving child, natural or adopted,
7 of an individual killed in the terrorist attacks of September 11,
8 2001, is entitled to the waivers under subdivision ~~(j)~~ (i) until that
9 person obtains the age of 30 years.

10 (4) A dependent of an individual killed in the terrorist attacks
11 of September 11, 2001, who is determined to be eligible by the
12 California Victim Compensation and Government Claims Board,
13 is also entitled to the waivers provided in this section until January
14 1, 2013.

15 ~~(m)~~—

16 (l) (1) It is the intent of the Legislature that sufficient funds be
17 provided to support the provision of a fee waiver for every student
18 who demonstrates eligibility pursuant to subdivisions ~~(g)~~ (f) to ~~(j)~~
19 (i), inclusive.

20 (2) From funds provided in the annual Budget Act, the board
21 of governors shall allocate to community college districts,
22 pursuant to this subdivision, an amount equal to 2 percent of the
23 fees waived pursuant to subdivisions ~~(g)~~ (f) to ~~(j)~~ (i), inclusive.
24 From funds provided in the annual Budget Act, the board of
25 governors shall allocate to community college districts, pursuant
26 to this subdivision, an amount equal to ninety-one cents (\$0.91)
27 per credit unit waived pursuant to subdivisions ~~(g)~~ (f) to ~~(j)~~ (i),
28 inclusive, for determination of financial need and delivery of
29 student financial aid services, on the basis of the number of
30 students for whom fees are waived. Funds allocated to a
31 community college district for determination of financial need and
32 delivery of student financial aid services shall supplement, and
33 shall not supplant, the level of funds allocated for the
34 administration of student financial aid programs during the
35 1992–93 fiscal year.

36 (m) (1) *The proceeds of the fee required by subdivision (b)*
37 *shall be remitted to the board of governors for deposit in the*
38 *Community Colleges Instructional Augmentation Fund, which is*
39 *hereby established in the State Treasury. Notwithstanding Section*
40 *13340 of the Government Code, funds deposited in the Community*

1 *Colleges Instructional Augmentation Fund are continuously*
2 *appropriated, without regard to fiscal years, for allocation by the*
3 *chancellor to each community college district on an equal basis*
4 *per full-time equivalent student in order to supplement and enrich*
5 *instructional and instructionally related services to students and*
6 *financial aid services to students.*

7 (2) *The board of governors may annually expend not more than*
8 *one-half of 1 percent of the annual proceeds remitted to the fund*
9 *for the purpose of assisting districts in the planning,*
10 *implementation, and oversight of programs and services paid from*
11 *the fund, subject to appropriation by the Legislature in the annual*
12 *Budget Act.*

13 (3) *It is the intent of the Legislature that all fund expenditures*
14 *supplement, rather than supplant, state funding for community*
15 *college programs.*

16 (4) *The Legislature finds and declares that allocations from the*
17 *Community Colleges Instructional Augmentation Fund are not*
18 *moneys to be applied by the state for the support of community*
19 *college districts pursuant to subdivision (b) of Section 8 of Article*
20 *XVI of the California Constitution, nor shall the allocations offset*
21 *moneys to be applied by the state for the support of community*
22 *college districts.*

23 (n) The board of governors shall adopt regulations
24 implementing this section.

25 SEC. 2. *Section 84751 of the Education Code is amended to*
26 *read:*

27 84751. In calculating each community college district's
28 revenue level for each fiscal year pursuant to subdivision (a) of
29 Section 84750, the chancellor shall subtract, from the total
30 revenues owed, all of the following:

31 (a) The local property tax revenue specified by law for general
32 operating support, exclusive of bond interest and redemption.

33 ~~(b) Ninety-eight percent of the fee revenues collected pursuant~~
34 ~~to Sections 76300 and 76330.~~

35 ~~(e) Timber yield tax revenues received pursuant to Section~~
36 ~~38905.1 of the Revenue and Taxation Code.~~

37 ~~(d)–~~

38 (c) Any amounts received pursuant to Section 33492.15,
39 33607.5, or 33607.7 of the Health and Safety Code, and Section
40 33676 of the Health and Safety Code as amended by Section 2 of

Chapter 1368 of the Statutes of 1990, that are considered to be from property tax revenues pursuant to those sections for the purposes of community college revenue levels, except those amounts that are allocated exclusively for educational facilities.

~~(e) Ninety-eight percent of the revenues received through collection of a student fee from a student enrolled in the district who registered or enrolled between July 1, 1995, and the date this act becomes operative.~~

~~(f) This section shall become operative on January 1, 1997.~~

SEC. 3. (a) It is the intent of the Legislature that any enrollment fee revenues received by the various districts of the California Community Colleges shall supplement, rather than supplant, state funding for community college programs.

(b) The Legislature finds and declares that enrollment fee revenues are not moneys to be applied by the state for support of community college districts for the purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution, nor shall these revenues offset moneys to be applied by the state for the support of community college districts.

~~76140. (a) A community college district may admit, and shall charge a tuition fee to, nonresident students. The district may exempt from all or parts of the fee any person described in paragraph (1) or (2):~~

~~(1) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this paragraph shall not be made on an individual basis.~~

~~(2) Any nonresident who is both a citizen and resident of a foreign country, if the nonresident has demonstrated a financial need for the exemption. Not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this paragraph may be made on an individual basis.~~

~~(b) A district may contract with a state, a county contiguous to California, the federal government, or a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.~~

~~(c) Nonresident students shall not be reported as full-time equivalent students (FTES) for state apportionment purposes, except as provided by subdivision (k) or another statute, in which case a nonresident tuition fee may not be charged.~~

~~(d) The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. The governing board of each community college district shall provide nonresident students with notice of nonresident tuition fee changes during the spring term before the fall term in which the change will take effect. Nonresident tuition fee increases shall be gradual, moderate, and predictable. The fee may be paid in installments, as determined by the governing board of the district.~~

~~(e) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (1) the amount that was expended by the district for the expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the district in the preceding fiscal year, (2) the expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all districts during the preceding fiscal year, (3) an amount not to exceed the fee established by the governing board of any contiguous district, or (4) an amount not to exceed the amount that was expended by the district for the expense of education, but in no case less than the statewide average as set forth in paragraph (2). However, if, for the district's preceding fiscal year, the FTES of all students attending in the district in noncredit courses is equal to, or greater than, 10 percent of the district's total FTES attending in the district, the district, in calculating the amount in paragraph (1), may substitute, instead, the data for expense of education in grades 13 and 14 and FTES in grades 13 and 14 attending in the district.~~

~~(f) The governing board of each community college district also shall adopt a tuition fee per unit of credit for nonresident students enrolled in more or less than 15 units of credit per term by dividing the fee determined in subdivision (e) by 30 for colleges~~

1 ~~operating on the semester system and 45 for colleges operating on~~
2 ~~the quarter system and rounding to the nearest whole dollar. The~~
3 ~~same rate shall be uniformly charged nonresident students~~
4 ~~attending any terms or sessions maintained by the community~~
5 ~~college. The rate charged shall be the rate established for the fiscal~~
6 ~~year in which the term or session ends.~~

7 ~~(g) In adopting a tuition fee for nonresident students, the~~
8 ~~governing board of each community college district shall consider~~
9 ~~nonresident tuition fees of public community colleges in other~~
10 ~~states.~~

11 ~~(h) Any loss in district revenue generated by the nonresident~~
12 ~~tuition fee shall not be offset by additional state funding.~~

13 ~~(i) Any district that has fewer than 1,500 FTES, and whose~~
14 ~~boundary is within 10 miles of another state that has a reciprocity~~
15 ~~agreement with California governing student attendance and fees,~~
16 ~~may exempt students from that state from the mandatory fee~~
17 ~~requirement described in subdivision (a) for nonresident students.~~

18 ~~(j) Any district that has more than 1,500, but less than 3,001,~~
19 ~~FTES, and whose boundary is within 10 miles of another state that~~
20 ~~has a reciprocity agreement with California governing student~~
21 ~~attendance and fees, may, in any one fiscal year, exempt up to 100~~
22 ~~FTES from that state from the mandatory fee requirement~~
23 ~~described in subdivision (a) for nonresident students.~~

24 ~~(k) The attendance of nonresident students who are exempted~~
25 ~~pursuant to subdivision (i) or (j) from the mandatory fee~~
26 ~~requirement described in subdivision (a) for nonresident students~~
27 ~~may be reported as resident FTES for state apportionment~~
28 ~~purposes. Any nonresident student reported as resident FTES for~~
29 ~~state apportionment purposes pursuant to subdivision (i) or (j)~~
30 ~~shall pay a fee of forty two dollars (\$42) per course unit.~~